

**B.C.D. 14-22**

**November 5, 2014**

**EMPLOYER STATUS DETERMINATION  
Geaux Geaux Railroad, LLC (GGRL)**

This is a determination of the Railroad Retirement Board concerning the status of Geaux Geaux Railroad, LLC (GGRL) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.).

In Surface Transportation Board (STB) Finance Docket 35826, decided May 19, 2014, GGRL filed a verified notice of exemption under 49 CFR § 1150.31 to acquire from Illinois Central Railroad Company (ICR) (BA No. 1516) ) and to operate approximately 21.95 miles of rail line (the Line) between: (1) milepost 9.69 at or near Zee, Louisiana and milepost 0.00 at or near Slaughter, Louisiana, and (2) milepost 345.84 at or near Slaughter, Louisiana and milepost 358.10 at or near Maryland, in East Baton Rouge Parish, Louisiana. The STB Finance Docket stated that GGRL would also operate over ICR between milepost 358.10 and 363.60 solely for the purposes of interchanging traffic at ICR's Baton Rouge, Louisiana yard.

Information regarding GGRL was furnished by Mr. Thomas McFarland, Attorney for GGRL. According to Mr. Mr. McFarland, GGRL is wholly owned by its parent company, Amzak Capital Management, LLC (Amzak). Mr. McFarland stated that Amzak is causing GGRL to contract with a Watco Transportation Services, LLC (Watco) (BA No. 9848) subsidiary to operate the Zee Line (the Line). GGRL does not have a Chief Financial Officer, nor does it have any other employee, according to Mr. McFarland. Mr. McFarland stated that GGRL will not operate the Line and that the Watco subsidiary will begin operations after it secures STB authority or an exemption for its operation of the Line. The trackage to be owned by GGRL is 21.95 miles in length extending between Zee, Louisiana and Slaughter, Louisiana, and between Slaughter, Louisiana and Maryland, Louisiana, according to Mr. McFarland, and as previously stated above. Mr. McFarland stated that a Watco railroad subsidiary, as GGRL's agent, will interchange traffic with ICR, an affiliate of Canadian National Railway (CN) (BA No. 1103), at Baton Rouge, Louisiana. Mr. McFarland stated that as a non-operating owner of the Line, GGRL will not have any rail operations. GGRL is to acquire the rail line through an Asset Purchase Agreement between GGRL and ICR which had yet to be signed as of May 27, 2014, when the information was submitted to the Board. Mr. McFarland stated that the exemption to operate the Line was for residual

operating authority in the event that the Watco railroad subsidiary were to cease operations over the Line. In that event, according to Mr. McFarland, it would be up to GGRL to contract with a different railroad operator to operate the Line or to operate the Line itself.

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. §231(a)(1)), insofar as relevant here, defines a covered employer as:

(i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under part A of subtitle IV of Title 49, United States Code.

Section 1 of the RUIA contains essentially the same definition.

In its decision regarding the employer status of *Railroad Ventures, Inc.* (B.C.D. 00-47), the Board held that an entity that has STB authority to operate a rail line, but leases or contracts with another to operate the line in question, is covered under the Acts administered by the Board unless the Board determines that the entity is not a carrier. The Board enunciated a three-part test in B.C.D. 00-47 to be applied in making this determination. An entity that leases a line to another company or contracts with another company to operate the line is a carrier under the Railroad Retirement Act unless the Board finds that all three of the following factors exist: 1) the entity does not have as a primary business purpose to profit from railroad activities; 2) the entity does not operate or retain the capacity to operate the rail line; and 3) the operator of the rail line is already covered or would be found to be covered under the Acts administered by the Board.

Applying this to the facts of GGRL, the Board determines that GGRL is not an employer covered under the Acts. As the evidence of record shows, GGRL's primary business purpose is not to profit from its railroad activities, but instead is to arrange for reactivation of rail service over the Line, which has been out of service for many years. Rail service over the Line will benefit GGRL's affiliate, KPAQ Industries, LLC, (KPAQ), which operates a paper mill at or near Zee, Louisiana. GGRL will not operate the Line, but instead will contract with a Watco railroad subsidiary for such operation. Additionally, GGRL is not affiliated with any rail carrier. With respect to the second part of the *Railroad Ventures* test, GGRL will not operate the Line, nor will GGRL retain the capacity to operate that Line, but instead a Watco subsidiary will obtain STB authority to perform such operations and will be the sole operator of the Line. Turning to the third criteria, the Watco subsidiary will already be covered by the Railroad Retirement and

Unemployment Insurance Acts (the Acts) or would be found to be a covered employer under the Acts. The Board therefore finds that GGRL is not a carrier under the test set forth in our *Railroad Ventures* decision.

Accordingly, the Board finds that Geaux Geaux Railroad, LLC, is not a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

Michael S. Schwartz

Walter A. Barrows

Steven J. Anthony